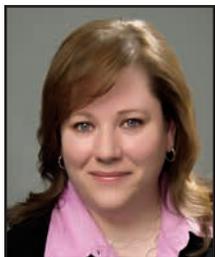


# Affordable Care Act and the Physician Payment Sunshine Act – What it Means for You



■ Elizabeth Hughes and Kristin Kroeger Ptakowski

Beginning in 2007, Congress began to look into concerns over financial relationships between physicians and device and pharmaceutical companies. Senator Grassley (R- IA) introduced the Physician Payment Sunshine Act to require reporting of all payments to physicians or their employers from pharmaceutical or medical device companies. AACAP supported the legislation, stating that the bill will “reinforce the public’s trust in the medical profession and promote transparency to allow patients, researchers, physicians, and others to obtain accurate and complete information on the nature of interactions between industry and physicians.” During the same period, AACAP leadership convened consensus panels to develop conflicts of interest guidelines for child and adolescent psychiatrists working in both clinical and research settings.

Due to the increasing congressional concerns about transparency, and concerns over waste and fraud in the healthcare system, the Physician Payment Sunshine Act was included in the Affordable Care Act. In February 2012, AACAP provided comments to the Centers for Medicare and Medicaid Services (CMS), on their interim regulatory rule, concerned that if implemented without modifications, it could result in the publication of misleading information and impose costly and burdensome paperwork requirements on physicians (See AACAP’s full comments on the Advocacy section of AACAP’s website).

In February, CMS announced a final rule that will increase public awareness of financial relationships between drug

and device manufacturers and certain health care providers. The rule finalizes provisions that require manufacturers of drugs, devices, biological, and medical supplies to report to CMS payments or other transfers of value of \$10 or more to physicians and teaching hospitals. Payments mean food, entertainment, gifts, consulting fees, honoraria, and other items or services of value.

CMS will post that data on a public website. The increased transparency is intended to help reduce the potential for conflicts of interest that physicians or teaching hospitals could face as a result of their relationship with manufacturers.

Continuing medical education (CME) activities have been excluded from the Sunshine Rule. Speaking at CME conferences is not included in the Sunshine Act if certain conditions are met that are consistent with the Accreditation Council for Continuing Medical Education’s (ACCME) Standards for Commercial Support. The Standards state that accredited providers must make all the decisions regarding CME, including faculty selection that is independent of industry influence. All commercial support must be paid directly to the CME provider, not to the speakers. As an accredited provider of CME, AACAP meets the criteria for commercial support. AACAP recognizes the importance of safeguarding independence of accredited continuing medical education. In addition, attendees of accredited continuing education events that are supported by pharmaceutical or medical device companies are not included in the rule.

Other items of interest from the Physician Payment Sunshine Act:

- Payments or other transfers of value to residents are not required to be reported.
- Payments or other transfers of value being provided to a specific physician through a group practice should not necessarily be attributed to all physicians in that group. CMS has specific examples of what should be reported and attributed to the individual vs. group practice.
- If a recipient does not receive payment personally, but rather directs the payment be transferred to charity or other entity, the manufacturer must still report the payment.
- Research funding must be reported, but does not have to be disclosed publicly for four years or until the product under development is approved, whichever comes first.

Here is a quick reference on the key reporting details:

## Who reports:

- Applicable manufacturers of pharmaceuticals or medical devices and applicable group purchasing organizations (GPO).

## Covered recipient:

- Physicians who are legally authorized to practice medicine.
- Applies regardless of whether the physician is enrolled in Medicare.
- Does not include medical residents or medical students.

## What is reported:

- Applicable manufacturer or GPO’s name.
- Covered recipient name, specialty, address, NPI number, state professional license number.

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# Task Force on Health Information Technology Report: The Promises and Perils of Health Information Technology in Child and Adolescent Psychiatry



■ **Barry Sarvet, M.D.**

Products of the inevitable march of human innovation, these amazing and beguiling machines we call computers, have infiltrated practically every corner of our personal and professional lives. They are in front of us and in our pockets throughout the day, on our nightstands as we sleep. We are told that in the not-so-distant future, we will be wearing them on our wrists and in front of our eyes, and perhaps someday they will interface directly with

our brains. By exchanging and processing information, networked computers may enlighten us, empower us, help us to answer questions, solve problems, entertain us, and connect us with others. On the other hand, in commanding our attention so powerfully, computers also distract us from direct experience of the world with at times lethal consequences (consider traffic accidents resulting from texting or fiddling with a GPS device). Relying too heavily on computer information processing, we may underutilize the dramatically more powerful information processing of our human brains. Networked computers also carry the potential to endanger our privacy. The real challenge is this: learning how to harness the enormous benefits of information technology to enhance, rather than take over, our lives and our work.

It should not be a surprise that information technology would be applied to

healthcare. What medical student has not experienced the growing realization that his/her brain is “full” in the middle of a long night of memorizing detailed anatomical information, enzyme cascades, obscure genetic syndromes, and the like? The enormous amount of data needing to be processed in order to provide high quality medical care is staggering and computers have come to the rescue. Multi-volume, sloppy, and disorganized medical charts are increasingly being replaced by neatly organized electronic medical record (EMR) systems. The best systems allow a physician to alternate between viewing a high level graphical analysis of trends in data over time and diving into the microscopic details of health information at a moment in time. Automated drug interaction checking is a standard feature within most EMR systems. Groups, clinics, hospitals, and entire health systems

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## Affordable Care Act and the Physician Payment Sunshine Act *continued from page 132*

- Amount of payment or other transfer of value.
- Date and form of the payment or transfer of value.
- Nature of the payment.
- Name of entity that received the payment if not provided to the physician directly.
- Payments or transfers of value to physician owners or investors.
- Entertainment.
- Travel and lodging.
- Education.
- Research.
- Charitable contribution.
- Royalty or license.
- Current or prospective ownership or investment interest.
- Grant.
- Space rental or facility fees (teaching hospital only).
- Ownership or investment interest.

### Nature of payment:

- Consulting fee.
- Compensation for services other than consulting, including serving as faculty or a speaker at an event other than a continuing education program.
- Honoraria.
- Gift.
- Food and beverage.

Data collection begins on August 1, 2013. Manufacturers and physicians have 45 days to review, dispute, and correct their reported information before it is posted on a publicly available website. CMS will notify the recipient when the reported information is ready for review. Recipients will be notified using an

online posting and through notifications on CMS's listserves. Any dispute will be resolved directly between the covered recipient and the relevant manufacturer or GPO. Applicable manufacturers will report data for August through December 2013 to CMS by March 31, 2014. CMS will release data on a public website by September 30, 2014.

The CMS regulation information can be found at [federalregister.gov/a/2013-02572](http://federalregister.gov/a/2013-02572). Be sure to visit AACAP's Advocacy information on the website at [www.aacap.org/cs/advocacy](http://www.aacap.org/cs/advocacy) to stay up-to-date on how health care reform impacts you. ■

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